

107TH CONGRESS  
2D SESSION

# S. 2575

To preserve the sovereignty of the United States over property owned by the United States, to preserve State sovereignty over and private property rights in non-Federal property surrounding Federal Property, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 4, 2002

Mr. SMITH of New Hampshire introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To preserve the sovereignty of the United States over property owned by the United States, to preserve State sovereignty over and private property rights in non-Federal property surrounding Federal Property, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Land Sov-  
5 ereignty Protection Act”.

### 6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1           (1) the power to dispose of and make all nec-  
2           essary rules governing property belonging to the  
3           United States is vested in Congress under section 3  
4           of article IV of the Constitution;

5           (2) some Federal property designations under  
6           international agreements concern land use policies  
7           and regulations for property belonging to the United  
8           States that, under section 3 of article IV of the Con-  
9           stitution, can be implemented only by an Act of Con-  
10          gress;

11          (3) some international property designations,  
12          such as those under the United States Biosphere  
13          Reserve Program and the Man and Biosphere Pro-  
14          gram of the United Nations Scientific, Educational,  
15          and Cultural Organization, operate under inde-  
16          pendent national committees, such as the United  
17          States National Man and Biosphere Committee, that  
18          have no legislative directive or authorization from  
19          Congress;

20          (4) actions by the United States in making  
21          such designations may affect the use and value of  
22          nearby non-Federal property;

23          (5) the sovereignty of the States is a critical  
24          component of our Federal system of government and

1 a bulwark against the unwise concentration of  
2 power;

3 (6) private property rights are essential for the  
4 protection of freedom;

5 (7) actions by the United States to designate  
6 property belonging to the United States under inter-  
7 national agreements in some cases conflict with con-  
8 gressional constitutional responsibilities and the sov-  
9 ereign powers of the States; and

10 (8) actions by the President in applying certain  
11 international agreements to property owned by the  
12 United States diminish the authority of Congress to  
13 make rules respecting the property.

14 (b) PURPOSES.—The purposes of this Act are—

15 (1) to reaffirm the power of Congress under  
16 section 3 of article IV of the Constitution over inter-  
17 national agreements that concern disposal, manage-  
18 ment, and use of property belonging to the United  
19 States;

20 (2) to protect State powers not reserved to the  
21 Federal Government under the Constitution from  
22 Federal actions designating property under inter-  
23 national agreements;

24 (3) to ensure that no United States citizen suf-  
25 fers any diminishment or loss of individual rights as

1 a result of Federal action designating property  
 2 under an international agreement for the purpose of  
 3 imposing restrictions on use of the property;

4 (4) to protect private interests in property from  
 5 diminishment as a result of Federal action designating property under international agreements; and

7 (5) to provide a process under which the United  
 8 States may, when it is desirable to do so, designate  
 9 property under an international agreement.

10 **SEC. 3. CLARIFICATION OF CONGRESSIONAL ROLE IN**  
 11 **WORLD HERITAGE SITE LISTING.**

12 Section 401 of the National Historic Preservation Act  
 13 Amendments of 1980 (16 U.S.C. 470a–1) is amended—

14 (1) by striking “SEC. 401. (a)” and inserting  
 15 the following:

16 **“SEC. 401. PARTICIPATION BY THE UNITED STATES.**

17 **“(a) IN GENERAL.—”;**

18 (2) in the first sentence of subsection (a)—

19 (A) by striking “The Secretary of the Interior”  
 20 and inserting “Subject to subsections (b),  
 21 (c), (d), and (e), the Secretary of the Interior  
 22 (referred to in this section as the ‘Secretary’)”;

23 and

24 (B) by inserting “(referred to in this section  
 25 as the ‘Convention’)” after “1973”;

1 (3) in subsection (b)—

2 (A) by striking “(b) The Secretary of the  
3 Interior” and inserting “(b) NOMINATION OF  
4 PROPERTY TO WORLD HERITAGE COM-  
5 MITTEE.—The Secretary”; and

6 (B) in the fourth sentence—

7 (i) by striking “Representatives and”  
8 and inserting “Representatives,”; and

9 (ii) by inserting before the final period  
10 “, and the appropriate State and local gov-  
11 ernments”;

12 (4) in subsection (c), by striking “(c) No non-  
13 Federal property may be nominated by the Secretary  
14 of the Interior” and inserting “(c) NOMINATION OF  
15 NON-FEDERAL PROPERTY TO WORLD HERITAGE  
16 COMMITTEE.—No non-Federal property may be  
17 nominated by the Secretary”; and

18 (5) by adding at the end the following:

19 “(d) REQUIREMENTS FOR NOMINATION OF PROP-  
20 erties.—The Secretary shall not nominate a property  
21 under subsection (b) unless—

22 “(1) the Secretary publishes a proposed nomi-  
23 nation in the Federal Register and conducts a pro-  
24 ceeding under sections 555, 556, and 557, of title 5,  
25 United States Code;

1           “(2) the Secretary, in carrying out the pro-  
2       ceeding described in paragraph (1)—

3           “(A) considers—

4               “(i) natural resources associated with  
5               the property proposed to be nominated and  
6               other property located within 10 miles of  
7               the property to be nominated; and

8               “(ii) the impact that inclusion of the  
9               property proposed to be nominated on the  
10              World Heritage List would have on exist-  
11              ing and future uses of the property pro-  
12              posed to be nominated or other property  
13              located within 10 miles of the property to  
14              be nominated; and

15           “(B) determines that commercially viable  
16       uses (in existence on the date of the nomina-  
17       tion) of the property proposed to be nominated  
18       and of other property located within 10 miles of  
19       the property proposed to be nominated will not  
20       be adversely affected by inclusion of the prop-  
21       erty on the World Heritage List; and

22           “(3) the Secretary submits to Congress a report  
23       that—

24               “(A) contains the information described in  
25               subparagraphs (A) and (B);

1 “(B) describes the necessity for including  
2 the property on the list; and

3 “(C) proposes legislation authorizing nomi-  
4 nation of the property; and

5 “(4) the nomination is specifically authorized by  
6 an Act of Congress enacted after the date of the re-  
7 port.

8 “(e) OBJECTION TO INCLUSION OF PROPERTY.—The  
9 Secretary shall object to the inclusion of property in the  
10 United States on the list of World Heritage in Danger  
11 established under Article 11.4 of the Convention, unless—

12 “(1) the Secretary submits to Congress the re-  
13 port required under subsection (d)(1)(C); and

14 “(2) the Secretary is specifically authorized to  
15 assent to the inclusion of the property on the list by  
16 an Act of Congress enacted after the date of submis-  
17 sion of the report under paragraph (1).

18 “(f) DECISIONMAKING.—Notwithstanding any provi-  
19 sion of the Convention, all land management decisions  
20 with respect to any Federal or State land shall remain  
21 the responsibility of the land management agency that ad-  
22 ministers the land.”.

1 **SEC. 4. PROHIBITION AND TERMINATION OF UNAUTHOR-**  
 2 **IZED UNITED NATIONS BIOSPHERE RE-**  
 3 **SERVES.**

4 Title IV of the National Historic Preservation Act  
 5 Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is  
 6 amended by adding at the end the following:

7 **“SEC. 403. PROHIBITION AND TERMINATION OF UNAU-**  
 8 **THORIZED UNITED NATIONS BIOSPHERE RE-**  
 9 **SERVES.**

10 “(a) IN GENERAL.—No Federal official may nomi-  
 11 nate property in the United States for designation as a  
 12 Biosphere Reserve under the Man and Biosphere Program  
 13 of the United Nations Educational, Scientific, and Cul-  
 14 tural Organization unless—

15 “(1) the Secretary of State publishes a pro-  
 16 posed nomination in the Federal Register and con-  
 17 ducts a proceeding under sections 555, 556, and  
 18 557, of title 5, United States Code;

19 “(2) the Secretary of State, in carrying out the  
 20 proceeding described in paragraph (1)—

21 “(A) considers—

22 “(i) natural resources associated with  
 23 the property proposed to be nominated and  
 24 other property located within 10 miles of  
 25 the property to be nominated; and

1                   “(ii) the impact that inclusion of the  
2                   property proposed to be designated as a  
3                   Biosphere would have on existing and fu-  
4                   ture uses of the property proposed to be  
5                   nominated or other property located within  
6                   10 miles of the property to be nominated;

7                   “(B) determines that commercially viable  
8                   uses (in existence on the date of the nomina-  
9                   tion) of the property proposed to be nominated  
10                  and of other property located within 10 miles of  
11                  the property proposed to be nominated will not  
12                  be adversely affected by designation of the  
13                  property as a Biosphere; and

14                  “(3) the Secretary of State submits to Congress  
15                  a report that—

16                       “(A) contains the information described in  
17                       subparagraphs (A) and (B);

18                       “(B) describes the necessity for including  
19                       the property in the program; and

20                       “(C) proposes legislation authorizing nomi-  
21                       nation of the property; and

22                  “(4) the nomination is specifically authorized by  
23                  an Act of Congress enacted after the date of the re-  
24                  port.

1       “(b) OBJECTION TO INCLUSION OF PROPERTY.—The  
 2 Secretary of State shall object to the designation of prop-  
 3 erty in the United States as a Biosphere Reserve under  
 4 the Man and Biosphere Program of the United Nations  
 5 Educational, Scientific, and Cultural Organization,  
 6 unless—

7               “(1) the Secretary of State submits Congress  
 8 the report required under subsection (a)(1)(C); and

9               “(2) the Secretary of State is specifically au-  
 10 thorized to assent to the inclusion of the property on  
 11 the list by an Act of Congress enacted after the date  
 12 of submission of the report under paragraph (1).

13       “(c) PROPERTIES DESIGNATED BEFORE DATE OF  
 14 ENACTMENT.—Any designation of property in the United  
 15 States as a Biosphere Reserve under the Man and Bio-  
 16 sphere Program of the United Nations Educational, Sci-  
 17 entific, and Cultural Organization made before the date  
 18 of enactment of this section shall terminate on December  
 19 31, 2003, unless the Biosphere Reserve—

20               “(1) is specifically authorized by a law enacted  
 21 after the date of enactment of this section and be-  
 22 fore December 31, 2003;

23               “(2) consists solely of property that on the date  
 24 of enactment of this section is owned by the United  
 25 States; and

1           “(3) is subject to a management plan that spe-  
 2           cifically ensures that the use of nearby non-Federal  
 3           property is not limited or restricted as a result of  
 4           the designation.

5           “(d) DECISIONMAKING.—Notwithstanding any provi-  
 6           sion of the Convention, all land management decisions  
 7           with respect to any Federal or State land shall remain  
 8           the responsibility of the land management agency that ad-  
 9           ministers the land.”.

#### 10 **SEC. 5. TECHNICAL AMENDMENTS.**

11           Title IV of the National Historic Preservation Act  
 12           Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is  
 13           amended—

14                   (1) in the last sentence of section 401(b), by  
 15           striking “Committee on Natural Resources” and in-  
 16           serting “Committee on Resources”; and

17                   (2) in section 402, by striking “SEC. 402. Prior  
 18           to the approval” and inserting the following:

19           **“SEC. 402. MITIGATION OF ADVERSE EFFECTS OF FEDERAL**  
 20                           **UNDERTAKINGS   OUTSIDE   THE   UNITED**  
 21                           **STATES.**

22           “Prior to the approval”.

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